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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

BY HAND

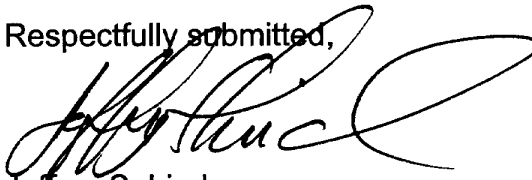
Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Ex Parte Communications in CC Docket No. 96-98

Dear Ms. Salas:

This is to inform you that Tim Regan, of Corning, and the undersigned met today with Kyle Dixon of Commissioner Powell's office to discuss a proposal not to unbundle new residential broadband loop facilities. The proposal and discussion points are detailed in the attached document.

Respectfully submitted,



Jeffrey S. Linder

cc: Kyle Dixon

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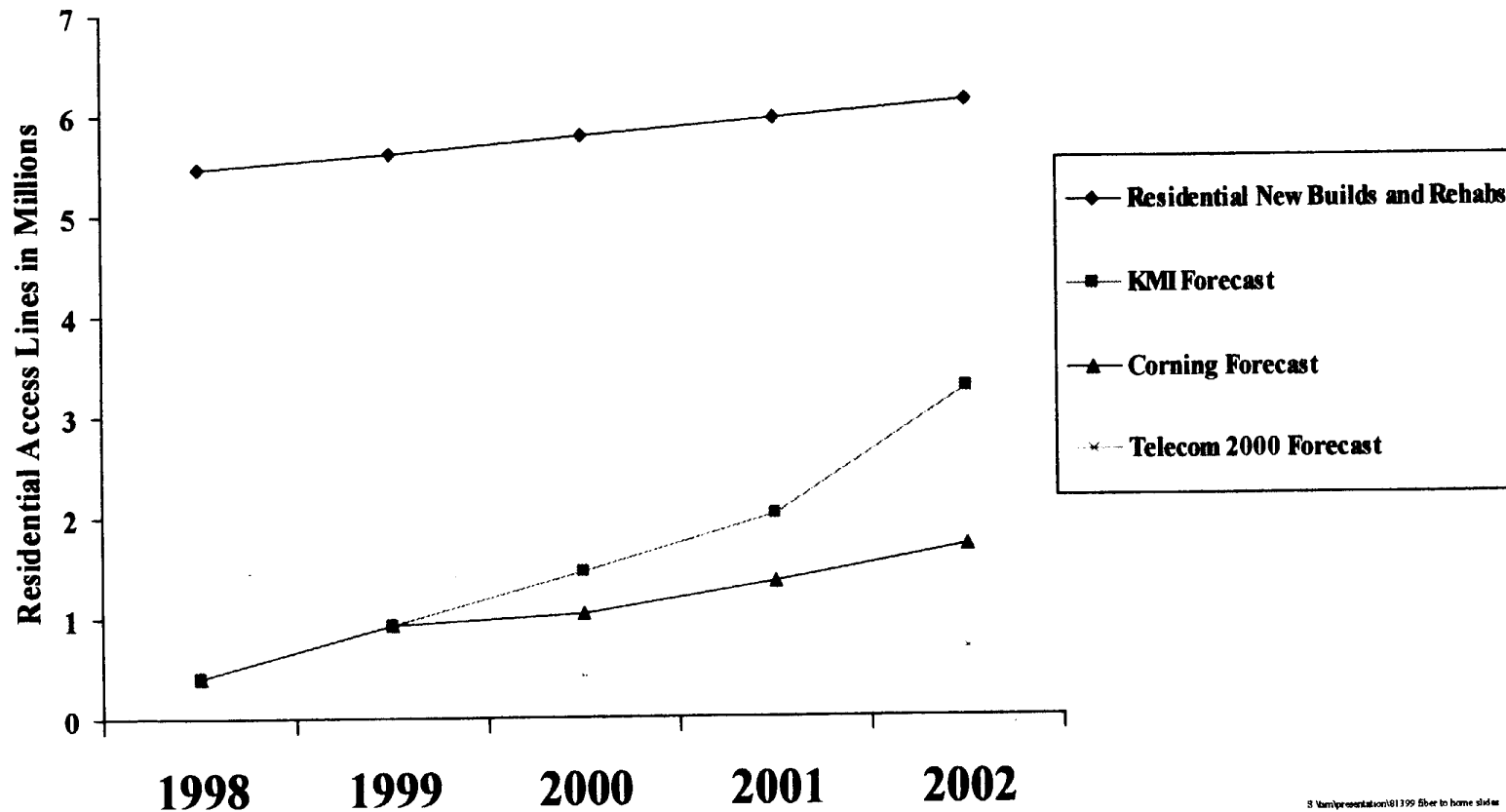
Proposal

- Refrain from unbundling “new residential broadband loop facilities”
- “New residential broadband loop facilities” must:
 - 1) be new builds or total rehabs deployed after July 1,
 - 2) provide service only to residential subscribers, and
 - 3) be capable of delivery POTS, 10 Base T data, and VHS quality video

Premise for Proposal

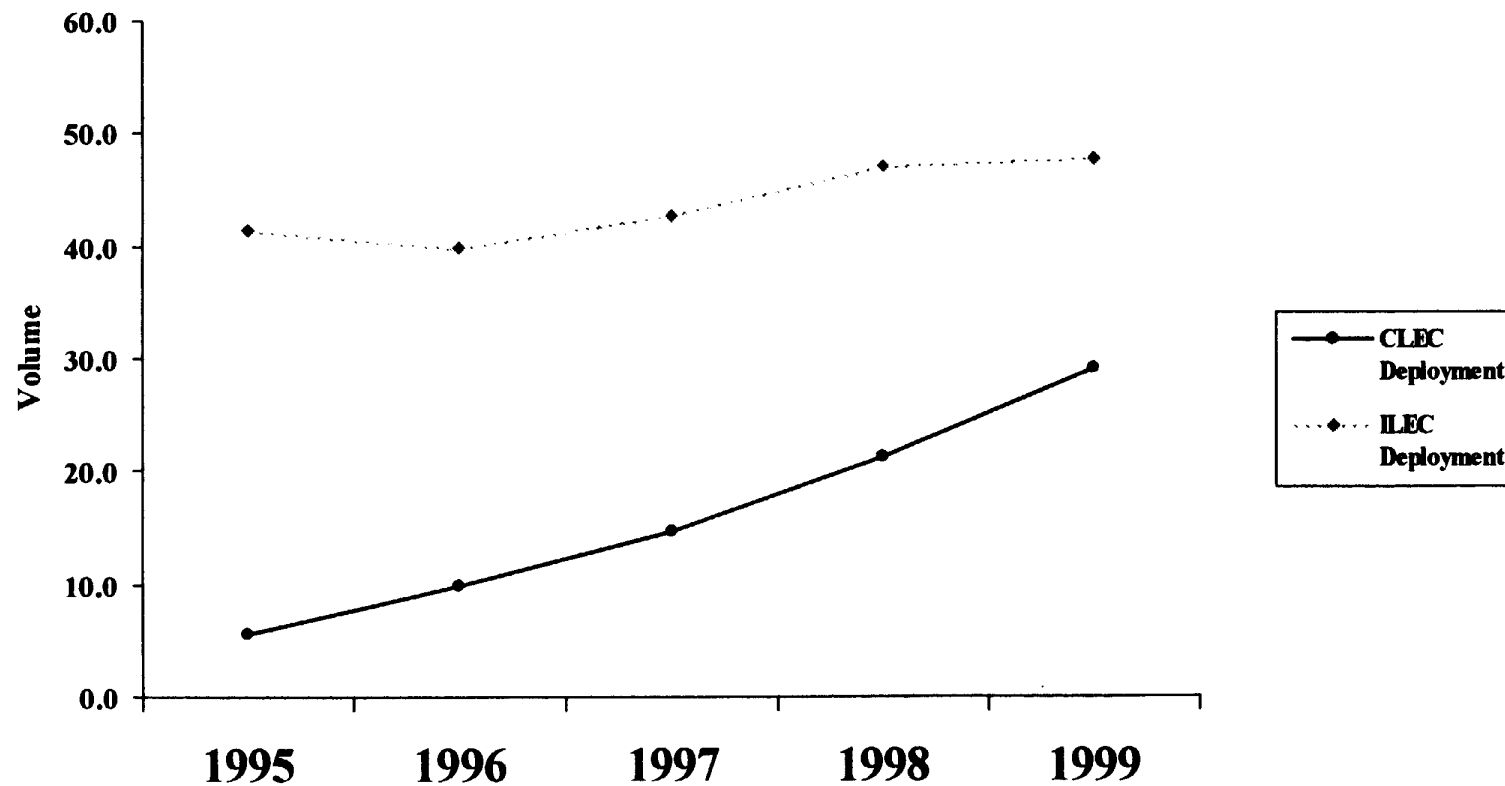
- Regulatory failure is occurring in deployment of new “residential broadband loop facilities”
- Supreme Court said “unbundling” has limits under Section 251 (d)(2)
- Thus, FCC can take action to correct regulatory failure by imposing reasonable limits

Regulatory Failure: “True Broadband” Deployment Below Expectations



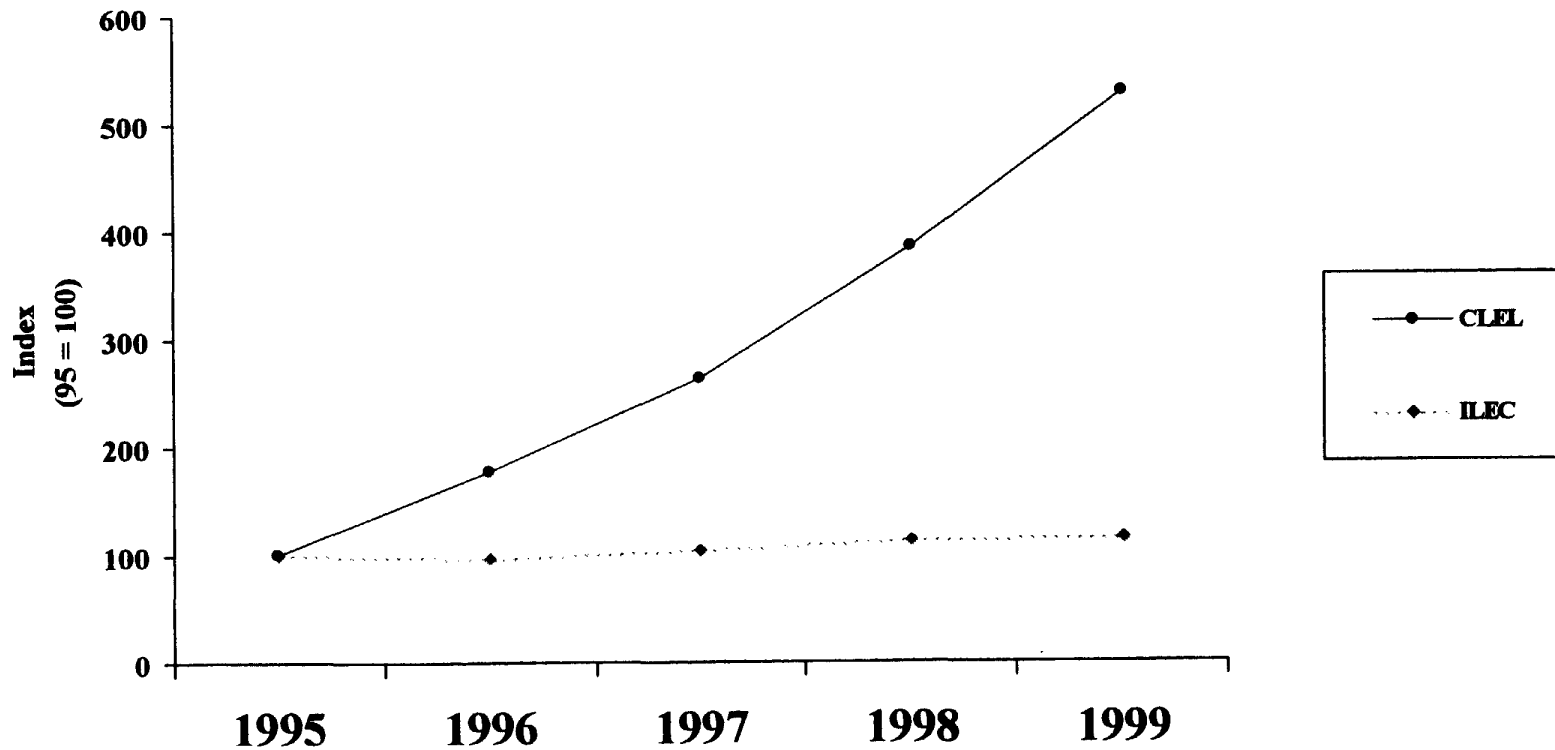
CLECs Aggressively Deploying Optical Fiber:

CLEC vs ILEC Deployment 1995-1999

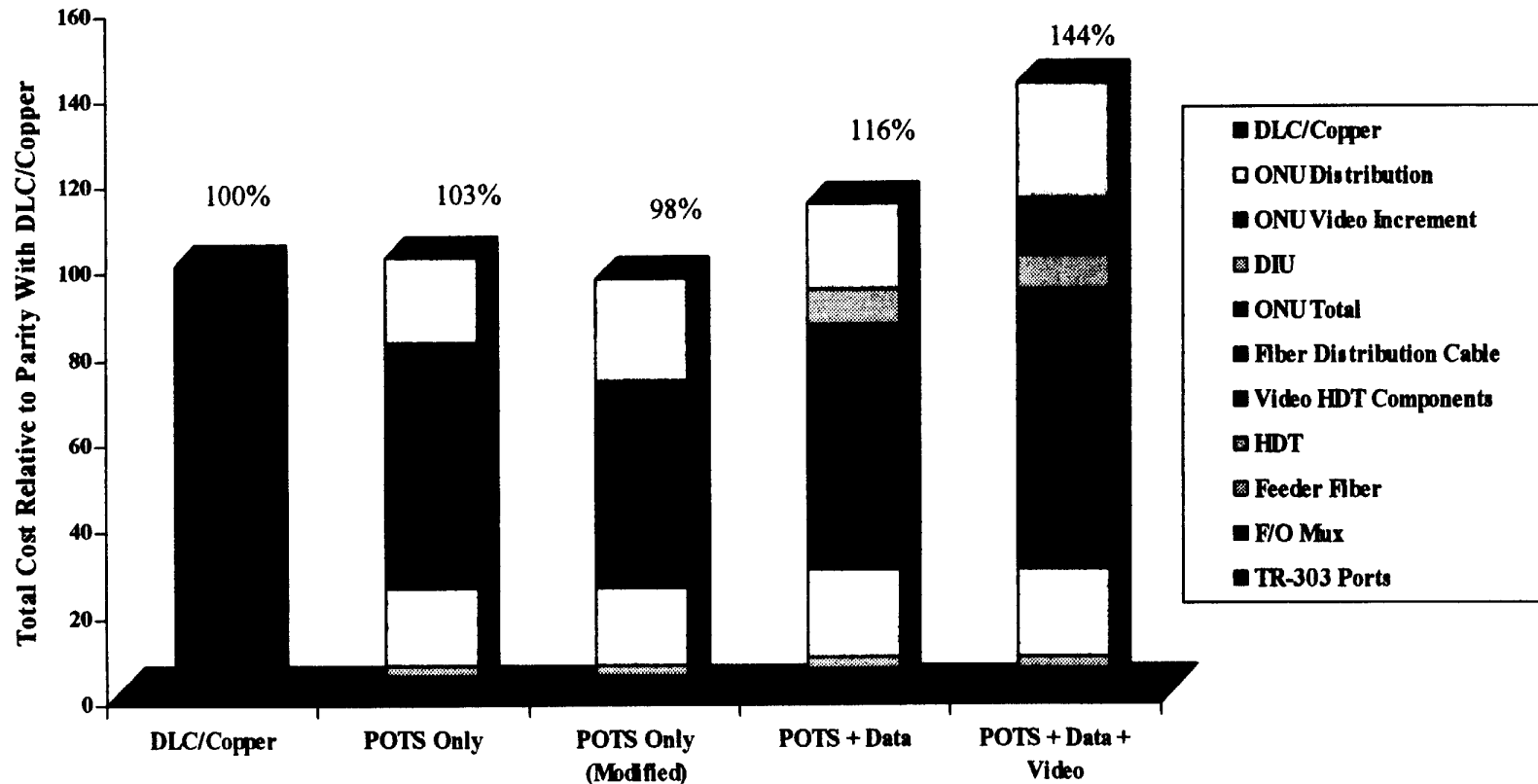


CLECs Aggressively Deploying Optical Fiber:

CLEC vs ILEC Growth, Indexed to 1995=100

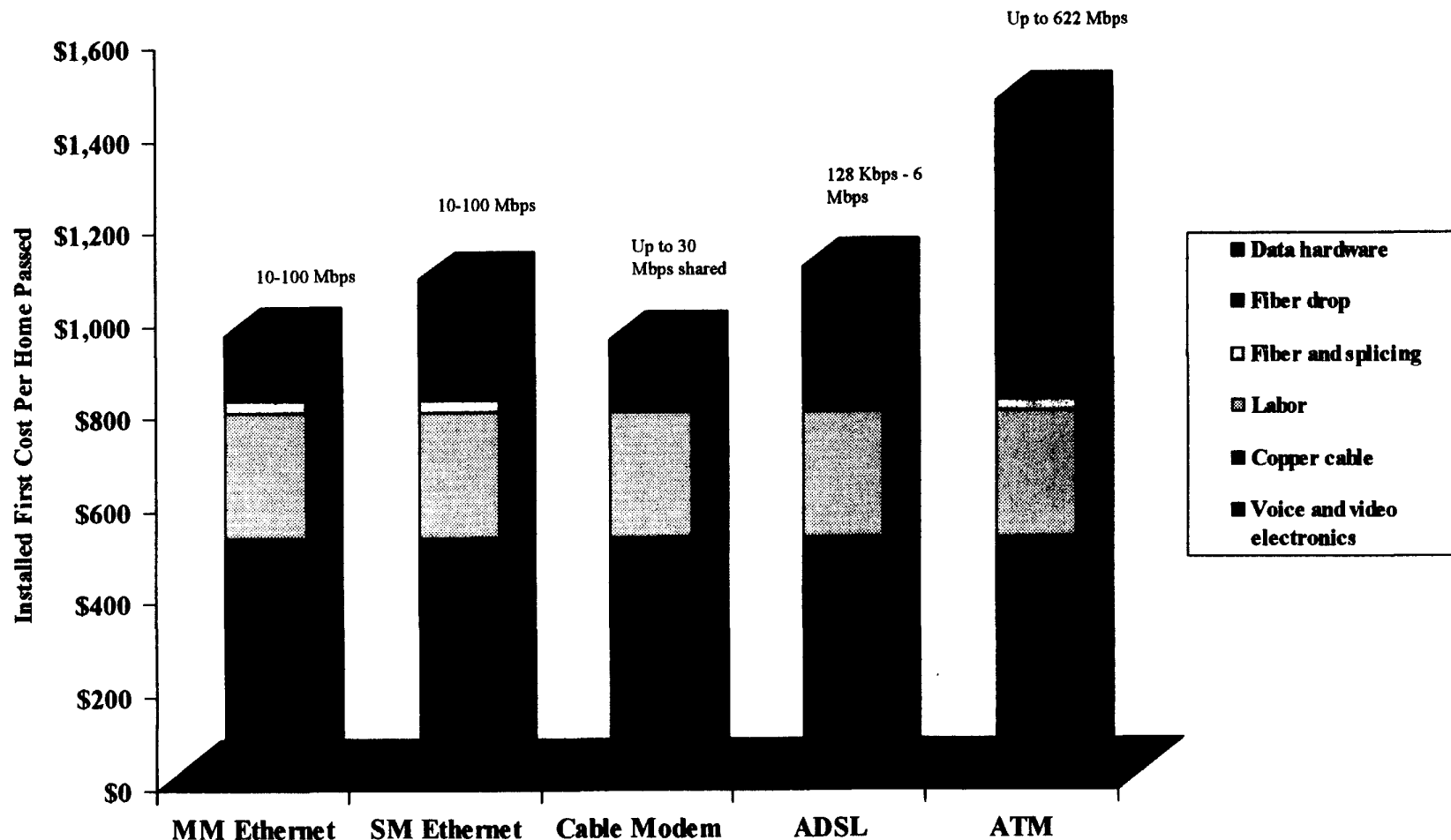


Fiber-to-the-Curb for Voice at Cost Parity with Copper



3 \am\presentation\61399 fiber to home slide

Ethernet Fiber-to-the-Home Cheaper Than ADSL and 16-78 X Capable



Source: Corning Incorporated

1998 CLEC vs ILEC Deployment of “New Residential Broadband Loop Facilities”

COMPANY	1998 ILEC DEPLOYMENT (homes passed)	1998 CLEC DEPLOYMENT (homes passed)
Ameritech	5,000	--
Bell Atlantic	80,000	--
BellSouth	200,000	--
NYNEX	60,000	--
Pac Bell	--	--
SBC (excl'g PacBell)	15,000	--
US West	10,000	--
GTE	--	--
Other ILEC	25,000	--
RCN	--	304,000
Other CLEC	--	15,000
TOTAL	<u>395,000</u>	<u>319,000</u>

Conclusion

- Regulatory failure is serious
- Solution is to refrain from unbundling new residential broadband loop facilities
- Solution consistent for 251 (d)(2) and Court remand because:
 - 1) ILECs don't have such facilities
 - 2) only choice CLECs have is to build facilities
 - 3) CLECs can, and do, deploy such facilities below ILEC cost

Conclusion (con't)

- 4) Failure to unbundle such non-existent facilities does not violate the “necessary” and “impair” requirement